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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,320	02/26/2007	Kenneth George Brash	37388-405800	4956
27717	7590	01/28/2009		
SEYFARTH SHAW LLP 131 S. DEARBORN ST., SUITE 2400 CHICAGO, IL 60603-5803				
EXAMINER				
PARADISO, JOHN ROGER				
ART UNIT		PAPER NUMBER		
3721				
MAIL DATE		DELIVERY MODE		
01/28/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/582,320

**Applicant(s)**

BRASH, KENNETH GEORGE

**Examiner**

John Paradiso

**Art Unit**

3721

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22, 24-30 and 32-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24-30 and 32-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10/14/2008 have been fully considered but are considered moot in view of the new grounds of rejection below.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-22, 24-30, and 32-73 are rejected under 35 U.S.C. 102(b) as being anticipated by OTSUKI ET AL (JP 08322449-A).

OTSUKI ET AL discloses a mobile fumigation system positioned within at least one ISO general purpose shipping container (container van 1) comprising a first gas-tight compartment including a fumigation chamber (10); a second compartment (9) including a fumigation apparatus (12) operatively coupled to the fumigation chamber (see Fig. 1); and a partition wall (3) separating the first and second compartments; a fumigant inlet device (21, 13) operatively coupled to the fumigation chamber through the partition wall to allow a fumigant (C02) into the fumigation chamber (10); an extraction device (14) operatively coupled to the fumigation chamber and arranged to remove a majority of the fumigant from the fumigation chamber (see Figs. 2-4); an absorption means (35) operatively coupled to the extraction device (via

interconnection of the parts into an assembly) and being designed to absorb the fumigant removed from the fumigation chamber (35 performs the function of absorbing ethylene which is circulating within the container; no particular fumigant or absorption means being particularly claimed). Also disclosed is a system control box containing a plurality of floor and wall-mounted pipes (see pipes between each of 14-17, 19, & 35 and apertures in 5, 6) independently connected via a system of taps and connectors to a fumigant sampling and detection meter unit (17 connected to the pipes via the interconnected closed loop system; no particular structural configuration being claimed) located in the second compartment (9). The system control box (25) containing a fumigant sampling and detection meter unit (17) and power supply switches for mixing fans, exhaust fan (14), lights (inherently there are light indicators on a control panel), gas heaters (26), and valve actuators (for 18, 22, 23).

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.

/John R Paradiso/

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Examiner John Paradiso: (571) 272-4466

January 21, 2009

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 272-4467

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)